

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

**ORDER ON DEPOSIT OF REGISTRY FUNDS
INTO INTEREST-BEARING ACCOUNT**

**ADM-1
ORDER 11-2**


ORDER

Local Rule 67.2 sets forth the rules and procedures governing the deposit of registry funds into an interest-bearing account. The administration of the primary investment mechanism for registry funds, the Court Registry Investment System ("CRIS"), will be transferred from the United States District Court for the Southern District of Texas to the Administrative Office of the United States Courts effective May 19, 2011. As a result, it is necessary to amend LR 67.2 to reflect this change.

Under the court's local rule revision process, amendments to the local rules do not become effective until December 1st of a calendar year. As a result, it is necessary to temporarily revise LR 67.2 by standing order at this time. Therefore, the attached temporary version of LR 67.2 shall take effect immediately and shall supersede the rule contained in the published local rules. Ultimately, during this year's local rule revision cycle this revised temporary version of LR 67.2 will be published for public review and comment and, either as currently drafted or as revised after public comment, will be incorporated into the published local rules effective December 1, 2011.

SO ORDERED.

Dated: May 9, 2011


Steven J. McAuliffe
Chief Judge

67.2 Deposit of Registry Funds Into Interest-Bearing Account

(a) Receipt of Funds.

(1) Unless an applicable statute requires the deposit of funds without leave of court, no funds governed by Fed. R. Civ. P. 67 shall be tendered to the court or the clerk's office for deposit into the court's registry absent court order signed by a judge.

(2) Unless provided for elsewhere herein, all funds received by the court or the clerk's office for any case pending or in the process of adjudication shall be deposited with the Treasurer of the United States, in the name and to the credit of this court, pursuant to 28 U.S.C. § 2041. Such deposits shall be made through depositories designated by the Treasury to accept such deposit on its behalf.

(3) Except as provided in subsection (b)(2) below, the party making the deposit or transferring funds to the court's registry shall electronically serve the order permitting the deposit or transfer on the clerk of court or, in the clerk's absence, upon the chief deputy clerk or financial administrator.

(4) The procedures for the receipt and handling by the clerk of any funds deposited with the court shall not be waived except by order of the court.

(b) Investment of Registry Funds. A motion and a proposed order setting forth the manner in which the funds will be deposited in an interest-bearing account or invested in an interest-bearing instrument must be submitted prior to the tender of such funds to the court.

(1) Court Registry Investment System.

(A) Unless otherwise ordered, the Court Registry Investment System (CRIS), administered through the Administrative Office of the United States Courts, shall be the investment mechanism authorized.

(B) Under CRIS, monies deposited in each case under subsection (a)(1) will be "pooled" together with those on deposit with the Treasury to the credit of other courts in CRIS and used to purchase Government Account Series securities through the Bureau of Public Debt, which will be held at Treasury, in an account in the name and to the credit of the Director of Administrative Office of the United States Courts, hereby designated as custodian for CRIS.

(C) A separate account for each case will be established in CRIS titled in the name of the case giving rise to the investment in the fund. Income generated from fund investments will be distributed to each case based on the ratio each account's principal and earnings has to the aggregate principal and income total in the fund. Reports showing the interest earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in CRIS and made available to litigants and/or their counsel.

(2) Other Investments and Instruments. Upon motion the court in its discretion may approve an investment mechanism other than CRIS. Prior to filing the motion, the party requesting approval of an alternate investment mechanism shall first personally deliver the proposed order to the clerk, chief deputy or financial administrator, who shall review the proposed order to confirm it fulfills investment requirements.

A motion to approve an alternate investment mechanism must, at a minimum, address the following:

- (A) the amount to be invested;
- (B) a designation of the type of account or instrument in which the funds shall be invested;
- (C) the name of the depository, which must be approved by the Treasurer of the United States as a depository in which funds may be held;
- (D) the form of additional collateral to cover the entire amount of invested funds without regard to FDIC insurance;
- (E) a direction to the clerk to deduct from the income earned on the investment a fee not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office as published in the Federal Register; and
- (F) such other appropriate information that may be deemed applicable under the facts and circumstances of the particular case.

Upon court order to deposit and invest registry funds locally, the clerk shall serve as custodian of the account or financial instrument and shall keep such account, certificate of deposit, or financial instrument in a secure and safe place subject to further order of the court.

(c) Registry Maintenance/Investment Fee.

(1) Authorized Deduction. Pursuant to 28 U.S.C. § 1913 and this rule, the custodian is authorized and directed to deduct the registry fee for maintaining accounts in CRIS and the investment services fee for the management of investments. The proper registry fee is to be determined on the basis of the rates established by the Director of the Administrative Office of United States Courts as authorized by the Judicial Conference. The rate applied corresponds to the size of the investment and the length of time investment funds are held. The investment services fee is assessed from interest earning according to the Court's Miscellaneous Fee Schedule.

(2) Fee Exemption. If registry fees were assessed against the case under the old 45-day requirement prior to deposit in CRIS, no additional registry fee will be assessed.

(3) Funds Disbursed to United States, Agencies or Officials Thereof. In cases in which funds are ultimately disbursed to the United States or to agencies or officials thereof, the clerk shall refund the registry fee to those agencies or officials upon application filed with the court by the United States Attorney or any other government counsel.

(d) Cash Bail. If cash bail in an amount in excess of \$10,000 is deposited with the court, it may be placed in an interest-bearing account upon motion of the submitting party. The deposit shall comply in all respects with the requirements of this rule except that there shall be no administration fee assessed.